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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SAYED-ESMAELI DASTOUM,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 05-76597

Agency No. A78-439-387

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted June 18, 2008^{**}

Before: REINHARDT, LEAVY and W. FLETCHER, Circuit Judges.

Sayed-Esmaeli Dastoum, a native and citizen of Iran, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for asylum. Our

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction is governed by 8 U.S.C. § 1252. We review de novo due process challenges to immigration decisions, *see Padilla v. Ashcroft*, 334 F.3d 921, 923 (9th Cir. 2003), and we deny the petition for review.

We conclude that Dastoum’s due process contention lacks merit, because the record does not show that the proceedings were “so fundamentally unfair that [he] was prevented from reasonably presenting his case.” *See Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000) (citation and internal quotations omitted).

We lack jurisdiction to review the IJ’s determination that Dastoum failed to establish extraordinary circumstances to excuse the late filing of his asylum application, because the underlying facts are disputed. *Cf. Ramadan v. Gonzales*, 479 F.3d 646, 650 (9th Cir. 2007) (per curiam).

PETITION FOR REVIEW DENIED.